

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

James R. Poole,

Petitioner,

v.

ORDER

Civil No. 05-1138 (MJD)

Dean Mooney, Director  
of the Minnesota Sex  
Offender Program,

Respondent.

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This matter is before the Court upon Petitioner's Application for a  
Certificate of Appealability.

Petitioner seeks to appeal the Order of this Court dated March 22, 2006, in  
which the Court adopted the Report and Recommendation of Chief Magistrate  
Judge Raymond Erickson, recommending summary dismissal of Petitioner's  
habeas petition under 28 U.S.C. § 2254.

An applicant's appeal of a final order in a habeas corpus proceeding brought  
pursuant to 28 U.S.C. §2254 may not proceed unless a district or circuit judge  
issues a certificate of appealability. 28 U.S.C. §2253(c) (1) (A). In order for a  
certificate of appealability to issue, an applicant must make a "substantial showing  
of the denial of a constitutional right." 28 U.S.C. §2253(c) (2). "A substantial  
showing is a showing that issues are debatable among reasonable jurists, a court  
could resolve the issues differently, or the issues deserve further proceedings."

Cox v. Norris, 133 F.3d 565, 569 (8<sup>th</sup> Cir. 1997). Based on the files, records and proceedings herein, the Court finds no basis upon which to grant Petitioner the requested relief.

IT IS HEREBY ORDERED that Petitioner's Application for a Certificate of Appealability is summarily dismissed.

Date: May 3, 2006

s / Michael J. Davis  
Michael J. Davis  
United States District Court